BEFORE THE TAMIL NADU REAL ESTATE APPELATE TRIBUNAL (TNREAT)

(Tamil Nadu, Puducherry, Andaman & Nicobar Island)

(Under the Real Estate Regulation and Development Act 2016)

Dated : 27.09.2019

Coram : Mr.Justice B.Rajendran, Chairperson
Mr.N.Balasubramanian, Judicial Member
Ms.Leena Nair, Administrative Member

Appeal No.55 of 2019

GMR Krishnagiri SIR Limited ... Appellant

Vs

Tamil Nadu Real Estate Regulatory Authority ... Respondent
Represented by its Chairman

The appellant herein entered into a Memorandum of Understanding with the Tamil Nadu Industrial Development Corporation Ltd. (TIDCO) to develop a project SEZ in Krishnagiri District in Tamil Nadu as a joint venture with an Infrastructure Development Company under Public Private Partnership model. On the strength of the Memorandum of Understanding, the appellant sent a letter to the respondent on 04.01.2019 and sought for opinion with regard to the applicability of RERA to their project. For which the respondent sent a reply dated 01.02.2019 and gave the opinion that the appellant's project has to be registered with TNRERA. After the receipt of the letter, the appellant sought for personal hearing to the respondent through letter dated 01.03.2019. After passing of the order no opportunity was given by the respondent. Hence the appellant preferred this appeal against the order dated 01.02.2019 which was received by the appellant on 15.02.2019.

2. This appeal came up for final hearing on 20.08.2019 in the presence of Advocates Tvl Anirudh Krishnan, Keethikiran Murali, Adithnarayanan, Ram Kishore Karanam and Ramya Subramanian and the respondent being a statutory authority which

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passed the order, no notice was sent to the respondent. On perusal of the argument put forth by the appellant side and documents produced by the appellant side, and having stood over for consideration till this day, this Tribunal delivered the following:

ORDER

Facts of the appellants case in brief:

3. The appellant and the Tamil Nadu Industrial Development Corporation Ltd entered into a Memorandum of Understanding to develop a multi product SEZ in Krishnagiri in Tamil Nadu as a joint venture with an Infrastructure Development Company under Public Private Partnership model. TIDCO has selected M/s.GMR Infrastructure Ltd. as the joint venture partner through international competitive bidding process. Subsequently the appellant changed the name from GMR Krishnagiri SEZ Ltd. to GMR Krishnagiri SIR Ltd. To that effect Certificate of Incorporation pursuant to change of name is issued by Government of India, Ministry of Corporate Affairs. Then the appellant have obtained all the necessary statutory approvals and started the development works. The external trunk infrastructure like HT power supply including substations and road connectivity are being taken up by the State agencies. The appellant had also sought opinion of RERA applicability from Mr.C.Manishankar, Sr. Advocate and former Additional Advocate General and the said Advocate opined that the industrial project like appellants will not be subject to RERA. Hence the appellant sought for opinion from the respondent by enclosing the Advocate's opinion with regard to applicability of RERA. For which the respondent expressed its opinion in writing on 01.02.2019. As appellant's project involves development of plots for industrial purpose, the same has to be registered with TNRERA. After the receipt of the order, the appellant sent a letter to the respondent on 01.03.2019 to provide an opportunity to make submissions on non applicability of RERA to the project. The respondent has not provided any opportunity further. Aggrieved upon that, the appellant preferred this appeal.

4. The learned counsel for the appellant would submit that the project for development of SIR along with TIDCO, the scope of work under the project includes procurement of land, plan design and construction, market the developed area and operate and maintain the common facilities and the infrastructure with the said SIR and

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also other activities related to development, operation and maintenance of the SIR. The object of the project was therefore only to develop a specialized industrial area which was in the public interest and is of great importance to the industralisation of Tamil Nadu. After the MoU with TIDCO, the appellant had acquired the land directly from villagers. The appellant has planned to develop the plot and leasing of industrial land, ready built factories along with infrastructure on a long term lease basis, and provide social and other support infrastructure to users of the industrial area. Further would submit that number of industrial aspects was not followed by the respondent and the appellant was not given an opportunity to make its submission in relation to the non applicability of the Act to the project. The respondent has failed to recognize that it was not the intention of the legislature to make the Act applicable to industrial projects and the same is evident from a bare perusal of the Act and its drafting history. The Standing Committee on Urban Development in its 30th report envisaged including industrial projects along with residential and commercial projects into the definition of the terms apartment and building in the Act. However the Act specifically omitted the word 'Industrial Projects' disregarding the recommendations of the Standing Committee on Urban Development. Hence the Act as it stands today, only applies to apartment, building and plots for residential and commercial use, where the Legislature has consciously made the Act inapplicable to industrial building/apartments. But the above said fact was not considered by the respondent. Furthermore the conjoint reading of Sections 2(zk)(ii), 2(zj) and 2(n) will clearly reflect that the Act does not envisage being applicable to industrial projects. Furthermore when the land is used for public purpose, it does not fall under the purview of the definition of plot. This project in joint venture with TIDCO is for the purpose of developing industrial units which will ultimately result in generating aggressive income and revenue for the State Government and would also provide ample employment opportunities to the people of the State. Therefore this project clearly falls under the purview of the public purpose.

5. The learned counsel to strengthen the above said arguments relied (2017) 7 SCC 540 Parle Agro Pvt. Ltd. vs Commissioner of Commercial Taxes, Trivandrum regarding Interpretation of Statutes.

> ***"In taxing statute the words used are to be understood in the common parlance or commercial parlance but such a trade understanding or commercial nomenclature can***

be given only in cases where the word in the tariff entry has not been used in a scientific or technical sense and where there is no conflict between the words used in the tariff entry and any other entry in the tariff schedule = held, the word aerated in entry 2 under Sec.6(1)(a) is scientific and technical word used under different statutes and the scientific and the technical meaning of the word 'aerated' can be looked in for finding out the real import of the entry – in the present case, rejecting the view of the revenue that the fruit based drink using carbon dioxide was an aerated drink, held, the appellant had rightly relied on the technical evidence brought on the record which indicated that use of carbon dioxide to the extent of 0.6% was only for the purpose preservative in packaging the commodities and the product was thermally processed and carbon dioxide was added to it as the preservative – Sales Tax and Vat – Kerala Value Added Tax Act, 2003 (30 of 2004) – Sec.6(1)(a) – Classification of goods – Words and phrases – Aerated"

6. The learned counsel also relied (2004) 5 SCC 409 – Ramesh Mehta vs Sanwal Chand Singhvi and others.

7. In the above said citation (2004) 3SCC 297 National Insurance Co. Ltd. Vs Swaran Singh case was relied and it has been held that it is desirable to look into the legislative history of the provision of the Act for their interpretation.

8. The learned counsel has relied Tamil Nadu Town and Country Planning Act, 1971 Sec.2 (31).

"Plot means a continuous portion of land held in one ownership other than land used, allotted or restored for any public purpose or any purpose connected with local administration carried on by any local authority".

9. The learned counsel has also produced 30th report of Standing Committee on Urban Development of the Ministry of Urban Poverty Alleviation at page No.79 & 80 of the Report.

"(i) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or other related purposes. In real estate commercial transactions are also there alongwith residential ones. Commercial structure are formed, industrial estates are formed. In our opinion since banks are financing all types of projects, there was no reason to exclude these projects. Probably it will be appropriate that it should have an all encompassing definition including

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residential, commercial and industrial projects. Many a times in commercial complexes the people seek funding from bank. But the builder leave it incomplete and use the funds elsewhere. If these people cab also be covered under the Bill it would be fine.

The Committee thus recommend that the definition of 'building' under clause 2(i) should have an all encompassing definition including residential, commercial and industrial projects."

10. The learned counsel for the appellant further relied 2010 2 SCC 273 Bhuwalka Steel Industries Ltd vs Bombay Iron and Steel Labour Board and another:

"It must at this juncture be noted that inspite of Sec.2(11), which included the words 'but for the provision of this Act is not adequately protected by legislation for welfare and benefits of the labour force in the State', these precise words were removed by the legislature and the definition was made limited as it has been finally legislated upon. It is to be noted that when the Bill came to be passed and received the assent of the Vice-President on 5.6.1969 and was first published in the Maharasthra Government Gazette Extraordinary. Part IV on 13.6.1969, the aforementioned words were omitted. Therefore, this would be a clear pointer to the legislative intent that the legislature being conscious of the fact and being armed with all the Committee reports and also being armed with the factual data, deliberately avoided those words. What the appellants are asking was to read in that definition, these precise words, which were consciously and deliberately omitted from the definition. That would amount to supplying the casus omissus and we do not think that it is possible, particularly, in this case. The law of supplying the casus omissus by the courts is extremely clear and settled that though this Court may supply the casus omissus, it would be in the rarest of the rare cases and thus supplying of this casus omissus would be extremely necessary due to the inadvertent omission on the part of the legislature. But, that is certainly not the case here."

11. The learned counsel further would submit that the RERA Act is a beneficial legislation with an object to protect the interest of consumers who do not possess any bargaining power from fraudulent real estate transactions. In the present project the ultimate consumers being industrial units have a better bargaining power with the present appellant. Therefore the appellant's project being industrial in nature will not fall within the ambit of the Act. Furthermore there is no specification for this project and it depends upon the individual units. Therefore in the absence of uniform standards to make the Act applicable to industrial projects would defeat the very scope contemplated by the Act.

12. The learned counsel would also submit that the impugned order dated 08.02.2019 issued by the Principal Secretary, HUD Department was wholly without jurisdiction and power.

13. The learned counsel has also relied one Supreme Court Case ITC Ltd. vs State of Uttar Pradesh and others in which allotment of commercial plots made on fixed rate basis instead of inviting sealed tenders or hold public auction for the State Government on finding mistake, cancelled concluded allotments. The High Court held that cancelation is unwarranted and directed reconsideration after hearing parties for rectifying error in regard to valuation. In this case the Supreme Court held that allotment of commercial plots by lessor-Noida to appellants for setting up hotels did not violate any provisions of the Act or the Noida Regulations, hence, cancellation of allotment unsustainable. Not necessary for Authority to change land use of plots from commercial to industrial use. Violation occurred on account of mistake on the part of the officers of Noida in misinterpreting Government policy.

14. The learned counsel has also relied upon Punjab Apartment Ownership Act 1995 for the definition of the word apartment, Haryana Apartment Ownership Act 1993 regarding the same definition.

15. The learned counsel for the appellant concluded by submitting that from the above said definition and citation it can be easily inferred that for the industrial purpose the RERA Act is not applicable. That is why the standing Committee had recommended the comprehensive inclusion of industrial properties along with residential and commercial. But while implementing the law the legislature intentionally omitted the word industrial projects. Hence while interpreting the legal terms as per the Supreme Court verdict in Ramesh Mehta case, the legislation history of provisions of the Act has to be looked into and it is also desirable for interpretation. As such the legislation rejected the recommendations made by the Standing Committee for the inclusion of the word industrial project in the definition 2e, 2j and 2zn without considering the legal conclusions and without giving an opportunity for the appellant, the order of the Regulatory Authority is not sustainable. Hence it has to be set aside.

Points for consideration:

16. Whether development of plots for industrial purpose will come under the ambit of RERA?

17. According to the appellant, two contentions were raised in this appeal. The first one is with regard to sufficient opportunity was not given to the appellant to explain the stand of the appellant which was against natural justice. The main contention with regard to interpretation of statutes regarding industrial plot for which RERA is inapplicable.

18. The appellant entered into a memorandum of understanding with the TIDCO for the establishment of SEZ at Hosur, Krishnagiri District. For that purpose, the appellant company was selected by the TIDCO for the development of the industrial sector. On the basis of the above said memorandum of understanding the appellant obtained all the necessary statutory approvals and started the development works. The external trunk infrastructure like HT power supply including substations and road connectivity are being taken up by the State agencies. In this regard the appellant sent a letter to the respondent with the following wordings. "We had sought opinion on RERA applicability from Mr.C.Manishankar, Senior Advocate and former Additional Advocate General and his opinion is also enclosed for kind reference. The opinion is also clear that the industrial projects like ours will not be subject to RERA".

19. The appellant disclosed the opinion of the senior advocate and also concluded that from the opinion their projects will not be subject to RERA and further asked the respondent to reaffirm as RERA is not applicable to their project. After considering his request and differing with the opinion of the Advocate the respondent gave an opinion negatively. Having rejected the request of the respondent after considering all aspects including the legal opinion the respondent cannot change his order on the basis of the explanation to be given by the appellant. Hence the respondent has not said anything in regard to the letter of the appellant dated 01.03.2019. The only course upon to the appellant is by way of an appeal against the order of the respondent. So the appellant has rightly approached the Appellate Tribunal against the order of the respondent. There is no infirmity on the part of the respondent in not granting any opportunity for the appellant after the passing of the order dated 01.02.2019. It is not a denial of opportunity at all as already

final order has been passed on 01.02.2019 itself there is no question of granting further opportunity. It is made very clear that the Authority has duly passed a final order on 01.02.2019 itself after considering the letter along with the legal opinion. The Authority has not accepted the legal opinion, passed an order and has also communicated to the appellant (viz impugned order). It is not their case even at that time when they sought the opinion from the Authority that they should be given a personal hearing. The Authority rightly considered their request which was on the basis of the legal opinion but decided against and has also communicated the order. After receipt of the order it is not open for the appellant to seek for a personal hearing. If at all they could have filed a review instead they have legally chosen to file an appeal. Hence the contention of them were not heard or was not given an opportunity cannot at all stand. It was too late on them to say that no opportunity was given. Hence this ground cannot be sustained.

20. The next contention raised by the appellant is the very important issue. According to the appellant it was not the intention of the legislature to make the act applicable to industrial projects and the same is evident from the bare perusal of the act and drafting history. The standing committee on Urban Development in its 30th report envisaged including "industrial projects" along with residential and commercial project into the definition of the terms 'Apartment and Building' in the Act. However, the act specifically omitted the word industrial projects disregarding the recommendations of the standing committee on urban development. Hence the act as it is stands today, only applies to 'Apartment, Building and Plots' for 'residential and commercial use'. Where the Legislature has consciously made the Act inapplicable to industrial buildings / apartments, the 1st respondent cannot widen the impunged order, bring industrial plots within its purview.

21. To strengthen that argument the learned counsel for the respondent has cited three citations of the apex court. All the above said three citations are with regard to the interpretation of statutes. The first contention is as follows:

(2017) 7 SCC 540 Parle Agro Private Limited Vs Commissioner of Commercial Taxes, Trivandrum.

22. In the above said citations meaning of the term Aerated in common parlance and its technical meaning. The apex court laid law for the common parlance meaning

when cannot supersede technical meaning. In the above said facts of the case rejecting the view of the revenue that the fruit based drink using carbon dioxide was an aerated drink, held, the appellant had rightly relied on the technical evidence brought on the record which indicated that use of carbon dioxide to the extent of 0.6 percent was only for the purpose of preservative in packaging the commodities and the product was thermally processed and carbon dioxide was added to it as the preservative. The above said facts of the case and meaning of the word aerated and its technical meaning is no way helpful to decide the issue. Hence this citation is not applicable to the facts of this case.

23. The next contention relied by the appellant side is:

"Ramesh Mehta Vs Sanwal Chand Singhvi and Others which is reported in (2004) 5 SCC 409".

In the above said case the law laid down by the apex court in ***National Insuance Co. Ltd Vs. Swaram Singh case*** was relied in which it was held that it is desirable to look into the legislative history of the provisions of the Act for their interpretation. In this case also the appellant put forth a ground on the basis of the history of legislation for interpretation. On the above said principles we have to analyse the facts of this case. In this aspect the learned counsel has also relied another verdict of:

"Bhuwalka Steel industries Limited Vs Bombay Iron and Steel Labour Board and Another case which is reported in (2010) 2 SCC 273".

24. In the above said case it was held that "Therefore this would be a clear pointer to the legislative intent that the legislature being conscious of the fact and being armed with all the committee reports and also being armed with the factual data, deliberately avoided those words. What the appellants are asking was to read in that definition, these precise words, which were consciously and deliberately omitted from the definition. In this case also originally the word industrial project was originally drafted but it was intentionally omitted for the purpose of enacting the act for the welfare of the real estate dwelling units and commercial units only and not the industrial projects. How far, this arguments of the appellant's side is true and tenable have to be analysed on the basis of the committee report model bill and enactment of the bill with regard to this act from the year 2010 to 2016.

25. Originally in the year 2010, the model Act for the real estate (Regulation and Development) was introduced in which the word building and real estate project is defined as follows:

> ***(g) "building" means a residential building constructed on any land from any construction material for residential use and includes an apartment or any structure used for human habitation.***

26. In the above said model act the word real estate project did not find a place.

27. In the year 2011 the real estate (Regulation and Development) bill 2011 was introduced in which the meaning of the word building and real estate project in Section 2(h) defined as follows:

> ***2(h) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or other related purposes."***
>
> ***(zc) "real estate project" includes the activities of (i) development of immovable property including construction thereon or alternation, thereof and their management.***

28. Again in the year 2013, the bill was introduced in which the word building and the word real estate projects are defined as follows:

> ***2(i) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential or other related purposes.***
>
> ***(zi) "real estate project" means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of a colony into plots or apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or buildings and includes the development works thereof;***

29. Again in the year 2015, the bill was introduced in which the meaning of the word building and the word real estate project defined in section 2(j) and 2(zn) which are as follows:

> ***(j) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or for the purpose of any business, occupation, profession or trade or for any other related purposes.***

(zn) "real estate project" means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or buildings, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement rights and appurtenances belonging thereto;

30. In the year 2016 , the bill was introduced in which the meaning of the word building and the word real estate project defined in section 2(j) and 2(zn) which are as follows:

(j) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or for the purpose of any business, occupation, profession or trade, or for any other related purposes;

(zn) "real estate project" means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenance belonging thereto;

31. With regard to the real estate Act enactment in the parliament on 10.03.2016 the Hon'ble Minister's statement is as follows (Page 365 of Type set of Appellant) :

"The Bill was not simply leaving it to the law Ministry. It was referred to the Attorney-General and the Attorney General also concurred with the views of the Law Ministry in July, 2011 itself and he has opined that the Parliament is competent to enact a law. Subsequently, the then Government, in its corrective wisdom, has brought this law and it was referred to the Standing Committee. The standing committee discussed it at length, made certain recommendations and those recommendations were considered by the subsequent Government for including in the Bill and then the Bill had some here, and here as some Members wanted it to be referred to the Select Committee, again, it was referred to the Select Committee and it came back."

32. In the standing committee it had sought public opinion through a press release and analysed the memoranda / suggestions received from various stakeholders/ experts such as CII, FICCI and Associations working in the field of real estate on various provisions of the Bills. The committee had the briefing of the representatives of the Ministry

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of Housing and Urban Poverty Alleviation on the Bill on 8 October 2013. The Committee heard the views of some of the NGOs working in the field of Real Estate. The committee also took oral evidence of the representatives of the Ministry of Housing and Urban Poverty Alleviation, Ministry of Finance (Department of Financial Services, Department of Revenue) Reserve Bank of India, State Bank of India, Bank of India, Punjab National Bank, National Housing Bank, Ministry of Consumer Affairs, Ministry of Law and Justice (Department of Legal Affairs and Legislative Department) and sought clarifications on various issues that were brought to their notice by various stakeholders during their sittings held on 6 November , 6 and 12 December 2013 respectively. The committee considered and adopted the draft report at their sitting held on 12th February 2014.

33. As such during the course of early evidence Secretary Department of Financial Services Ministry of Finance deposed as stated supra. On that basis the committee recommended that the building under clause 2(i) should have an all encompassing definition including residential, commercial and industrial projects.

34. The above said recommendation was not considered by the both the houses of parliament before passing the act it was also referred to select committee. The select committee also filed its report in July 2015 in which also recommendations of the standing committee with regard to the definition of the words building and real estate projects does not find place. Again while passing the act in parliament also some amendments were made in which also recommendations of the standing committee was not adhered by the parliament. Number of amendments were raised and accepted by the Minister for Urban Development and finally the bill as amended was passed on 10.03.2016 itself. From 2010 to 2016 nowhere in the bills the word industrial project was not incorporated as per the type set (big size) produced by the appellant from page nos. 1 to 435 the appellant side.

35. The appellant side produced Type set no.2 (small size) report of the standing committee from page 67 to 172 in which at page no.80 it has been specifically stated that held that "initial draft of the Bill mooted by the Ministry was a comprehensive regulatory Bill for the real estate sector, which included residential, industrial and commercial properties. So the Secretary of the department of Financial Services has deposed about the inclusion of the word industrial and the standing committee has also recommended the same. The

standing committee before filing its report sought public opinion through press release and also received suggestions from various stack holders and also took oral evidence of the representatives of the related Ministries and banks in such a situation the financial service department namely the Ministry of Finance suggested to include the word industrial project. The legislature never intended to include the word industrial.

36. These are the history of legislation of real estate act. In the above said legislative history it was not shown by the appellant that it was drafted originally and legislature intentionally omitted the word industrial project. The legislature classified the real estate project into development of building and development of land for the purpose of selling and not for any other purpose. The legislature have not classified the development of land for the purpose of commercial or non commercial. They simplified the definition for the purpose of development of land into plots for the purpose of selling. They have not given any technical meaning. So, the legislative history of the real estate act does not disclose the definition of the appellant. Now let us analyse the applicability of the act of the appellant's project.

37. On the side of the appellant to prove his contention has come forward with a petition under Order 41 Rule 27 of CPC to file additional documents under regulation 5 (11) of Tamil Nadu Real Estate Appellate Tribunal Regulations, 2019 in which the petitioner has relied six documents. The 1st document dated 09.07.2007 letter from TIDCO to the appellant regarding the grant of the letter of award. The 2nd document dated 06.08.2007 memorandum of association between TIDCO and the parent company of the appellant. The 3rd document dated 05.01.2018 which is a certificate of incorporation. The 4th document is the letter of TIDCO regarding approval for the appellant company dated 27.07.2018. The above said four documents are not disputed and they are no way useful to decide the issue. The 5th document namely the Government Order issued by the Tamil Nadu Housing and Urban Development Department with regard to appointing of Chairperson to TNRERA. The 6th document dated 01.03.2019 which is a letter written by the appellant to the respondent to provide an opportunity to make submissions on non-applicability of RERA to the project. After the passing of the opinion which was sought by the appellant the only course upon to the appellant is preferring an appeal. After passing of the final order it cannot be altered at the instance of the appellant. So the request of the

appellant was not accepted by the respondent. It is also not helpful to decide the issue. The document no. 5 is the Government Order which is also not related to the point for consideration. Hence it is also not useful to decide the issue.

38. The appellant and the respondent entered into a memorandum of understanding in which the TIDCO has clearly stated that, to develop a multi product Special Economic Zones in Krishnagiri District in Tamil Nadu as a joint venture with an Infrastructure development company under Public Private Partnership model. The project proposal mentioned in the memorandum is to provide developed industrial plots with all common infrastructures facilities for setting up manufacturing / service facilities for export oriented industries.

39. First of all we have to analyse the meaning of the industrial project. Industrial project means any site, structure, building, industrial park, water dock, wharf or port facilities, fixture, machinery, equipment and related facility, including real and personal property or any combination thereof, suitable as a factory if available on reasonable demand to members of the general public. In another definition of industrial property is assessor's parcels of Developed property other than residential property and exempt property.

40. In the above said memorandum of understanding in point no.3 role of GMRIL namely the appellant, it has been specifically mentioned as 'GMRIL shall get the requisite governmental and statutory approvals for its investment as well as implementation of the project'. Further it was mentioned that GMRIL will strive to procure the lands from the land owners through private negotiations from its own financial resources. From the above covenant of the memorandum of understanding itself very clear that the appellant procure the lands from the land owners through and its own finance resources and must get requisite governmental and statutory approvals. The TIDCO has not provided any assistance or provide any exceptions from getting approval etc. The TIDCO entered into a memorandum of understanding by way of facilitating the appellant to do a real estate business for the purpose of selling industrial plots.

41. The Government is in no way responsible or to take part in the business of the appellant. The TIDCO identify the experienced person namely the appellant to induct into

the industrial real estate business for selling and leasing for the profit and not on service motive. The appellant also is a reputed company and also having device to sophisticated marketing strategies to attract committed long term investors in the SEZ and will implement a comprehensive plan to fulfill all objective of the project proposal. Therefore the appellant company was selected as a qualified and external contractor. So the appellant has to sell the real estate plots for the purpose of industry and within the clutches of the RERA. RERA was enacted both for the benefit of the buyer and seller. Hence no exemption was granted in the act. The legislature cleverly enacted the provision without any ambiguity and without any partiality, the act was enacted. The Governmental bodies and undertakings namely Tamil Nadu Housing Board etc. are also subject to the clutches under RERA.

42. The select committee of Rajya Sabha has said the purpose of enactment that the bill to establish the Real Estate Regulatory Authority for regulation and promotion of the real estate sector and to ensure sale of plot, apartment or building, as the case may be, or sale of real estate project, in an efficient and transparent manner and to protect the interest of the consumers in the real estate sector and to establish and adjudicating mechanism for speedy dispute redressal and also to establish the Appellate Tribunal to hear appeals from the decisions, directions or orders of the Real Estate Regulatory Authority and the adjudicating officer and for matters connected therewith or incidental thereto, as reported by the Select committee of Rajya Sabha, be taken into consideration.

43. The above said words spoken by the Deputy Chairman of the Rajya Sabha on 10.03.2016 in the Rajya Sabha. The purpose of the bill is only to regulate the real estate sector to ensure the sale of plots, apartments or buildings and also to protect the interest of the consumers as well as the promoters.

44. In the above said object, there is no differentiation of housing plots, commercial plots and industrial plots. Any plot or apartment or building sold under the name and style of real estate certainly this act shall be applicable. This is the purpose of the act. During the course of evidence at the time of standing committee the finance department secretary deposed regarding the definition building only because the financial institutions are lending money for the buildings particularly namely housing loan etc. Only to safeguard the interest

of the institution and the secretary ministry of finance being the guardian of the institution they have proposed for the safety of the institutions. The said finance secretary never spoke about the real estate project. Further more in particular the finance secretary has not spoken about the development of plots. They have spoken more about the buildings. Hence the select committee avoided to consider the suggestion made by the standing committee with regard to the definition of building. Merely because the finance secretary deposed with regard to the building and sought for amendment alone is not sufficient to take shelter by appellant. The entire act and legislative history clearly mentioned about the sale of plots, apartments, etc. Therefore the very purpose of the enactment is only for the regulation of sale of plots and apartments and not for any other purpose. Hence, the respondent, Real Estate Regulatory Authority, has rightly pointed out that the act has not differentiated plots into housing plots, commercial plots or industrial plots. So there is no infirmity on the findings of the respondent. Hence in such circumstances, this Tribunal comes to the conclusion that this appeal has no merits and not deserved to be allowed.

45. In the result the appeal is dismissed. No costs and the findings of the Real Estate Regulatory Authority is confirmed.

Sd/- Mr.Justice B.Rajendran
CHAIRPERSON

Sd/- Ms.Leena Nair
ADMINISTRATIVE MEMBER

Sd/- N.Balasubramanian,
JUDICIAL MEMBER

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